The very mode of constituting the court presupposed, as was undoubtedly the fact, that there were not judges enough for circuit and term work, which work was vastly increased by a number of election petitions. It is impossible to suppose that the business of the country will not gradually increase, and it is very important that the judges should be able to drive their work, and not that it should drive them, as is now too often the case. It is better to have too many judges than too few, and if three judges in each court are not enough, let there be four, or let there be four courts with three judges each; but let us have a Court of Appeal that is a Court of Appeal simply, and not a sort of court "in aid," and let it be as strong in every essential particular as is possible.

There is no lack of talent or learning in the present court; but with the exception of the Chief Justice and of the Senior Justice, there is a want of that long judicial experience that not only inspires public confidence, but is of much practical benefit. It is, moreover, an objection that a case should be tried in the first instance before one of the Justices of Appeal, then be heard by the Court in which it originated, and then go up from that court to the Court of Appeal, where, for all that the statute says to the contrary, the judge who originally tried it may again adjudicate thereon; and, in connection with this, it is an objection that the Court is not complete in itself, and that it should occasionally be necessary to call in the aid of a judge of one of the courts below, who has plenty of his own work to do, and who cannot be expected to give that time to the case he is required to hear (for the purpose of making a quorum) that it should receive. It is also an objection that the Judges of Appeal should be called away to do circuit work, and not be able to give their whole time and attention to their more legitimate duties; and if the work would thereby be made comparatively light for these judges, it is proper that those should be in the court who (other things being equal) can claim some relaxation from length of public service. In connection with this objection, it is public policy that a court of final resort should, so to speak, stand somewhat on a pedestal, above and beyond the turmoil of assize and circuit work, and the judges be in the imagination rather than actually before the suitors. Without going more into details, there is apparently no principle running through the present system, and it has a make-shift and patchwork appearance. It is not, however, to be denied that though we can now point out some defects, the country is much indebted to the Government for having, at a time when there was a pressing need of more judicial help, promptly met the difficulty, though there may be some doubt as to whether the way adopted will prove the best in the long run. Nor is it to be denied that in this transition stage of affairs, it is very difficult to say what is best to do on any given emergency.

As we have taken upon ourselves to express what is, we believe, the general opinion on this subject, we may be asked what suggestion we have to offer in the premises. We would premise that it is desirable that the Chiefs of the Superior Courts should be to a great extent relieved from circuit and chamber work. This would be possible with four judges in each court. This being provided for, let the Court of Error and Appeal be composed of a Chief Justice, being a retired chief of one of the three Superior Courts, together with the heads of those courts, with a provision that the chief of the court appealed from should not sit in a case in which he had taken part below. As this would reduce the court practically to three, it would be well to have at least one or perhaps two additional justices in appeal